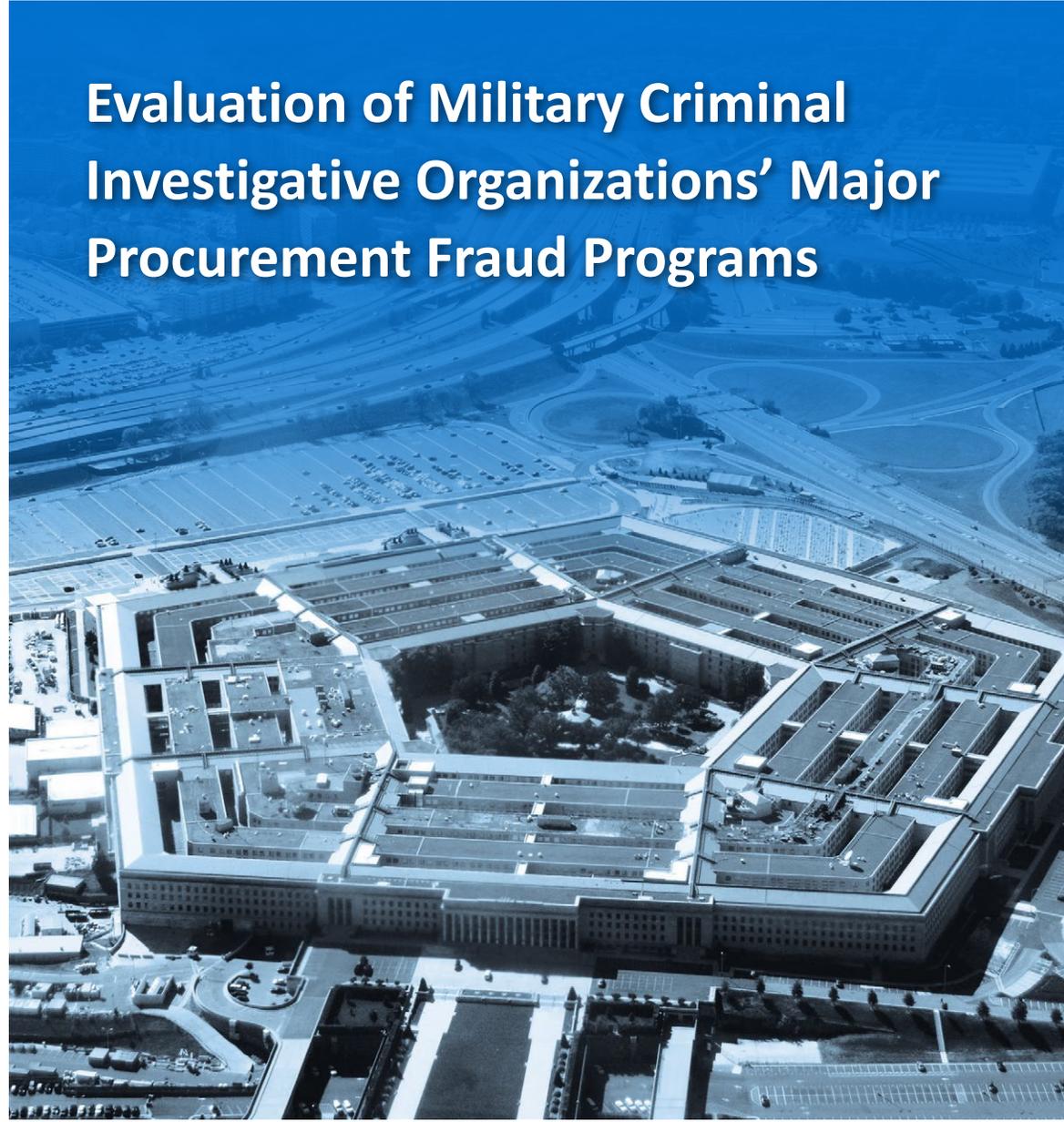


INSPECTOR GENERAL

U.S. Department of Defense

JANUARY 23, 2023



Evaluation of Military Criminal Investigative Organizations' Major Procurement Fraud Programs

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





Results in Brief

Evaluation of Military Criminal Investigative Organizations' Major Procurement Fraud Programs

January 23, 2023

Objective

The objective of this evaluation was to determine whether the Military Criminal Investigation Organizations' (MCIOs) major procurement fraud investigations comply with Department, Service, and MCIO policy. The investigations under review covered fraud offenses with an alleged loss of \$500,000 or more; corruption involving bribery, gratuities, or conflicts of interest; and defective product, non-conforming product, counterfeit material (equipment and supplies), and product substitution. As part of our evaluation, we evaluated 133 major procurement fraud investigations. The 133 investigations consisted of 43 Army investigations, 65 Navy investigations, and 25 Air Force investigations closed from January 1, 2017, to December 31, 2019.

Background

Because procurement fraud investigations are unique in their investigative and administrative requirements specific to the military procurement process, the MCIOs established special units and trained special agents to investigate these types of crimes. The Army Criminal Investigation Division (CID) established the Major Procurement Fraud Unit (MPFU), the Naval Criminal Investigative Service (NCIS) established the Economic Crimes Field Office, and the Air Force Office of Special Investigations (OSI) established the Office of Procurement Fraud.

Findings

Based on our evaluation, we made the following determinations:

- MCIO case agents did not consistently notify, regularly discuss with, and distribute reports to the centralized organizations, resulting in a lack of proper legal advice to case agents and remedy recommendations to the cognizant Department of Defense officials.
- Secretary of the Navy Instruction 5430.92C and Army Regulation AR 27-40 conflict with a Department of Defense Instruction 7050.05 centralized organization requirement.
- Three of the 133 investigations were insufficient, which likely affected the outcome of those investigations.

Recommendations

We recommend that the Secretary of the Navy review Secretary of the Navy Instruction 5430.92C and the Army Judge Advocate General review Army Regulation 27-40 to determine if revisions are necessary to align with Department of Defense Instruction 7050.05. Additionally, we recommend that the MCIO Directors or Commander:

- Review and update supervisory procedures as needed;
- Review and update policy on proper organizational notifications; and
- Review and update investigative procedures for greater alignment to policy requirements.

Management Comments and Our Response

The Secretary of the Navy did not respond to the recommendations and the official responding for the Army CID Director did not agree with a recommendation; therefore, we request comments on the final report within



Results in Brief

Evaluation of Military Criminal Investigative Organizations' Major Procurement Fraud Programs

Comments (cont'd)

30 days. The OSI Commander, and officials responding on behalf of the Army Judge Advocate General, Army CID Director, and NCIS Director agreed with the remaining recommendations.

Please see the Recommendations Table on the next page for the status of recommendations.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Secretary of the Navy	A.1, B.1	None	None
Army Judge Advocate General	None	A.2	None
Army Criminal Investigation Division Director	B.2	A.3	None
Naval Criminal Investigative Service Director	None	A.4.a, A.4.b	A.4.c, B.3
Office of Special Investigations Commander	None	A.5	None

Please provide Management Comments by February 27, 2023.

Note: The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – DoD OIG verified that the agreed upon corrective actions were implemented.





OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

January 23, 2023

MEMORANDUM FOR AUDITOR GENERAL, DEPARTMENT OF THE ARMY
AUDITOR GENERAL, DEPARTMENT OF THE NAVY
DIRECTOR, ARMY CRIMINAL INVESTIGATION DIVISION
DIRECTOR, NAVAL CRIMINAL INVESTIGATIVE SERVICE
COMMANDER, OFFICE OF SPECIAL INVESTIGATIONS

SUBJECT: Evaluation of Military Criminal Investigative Organization's Major Procurement Fraud Programs (Report No. DODIG-2023-045)

This final report provides the results of the DoD Office of the Inspector General's evaluation. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report. As a result of NCIS management actions taken during the evaluation, we consider Recommendations A.4.c and B.3 closed.

The Procurement Fraud Division Chief, Army CID Chief of Staff, NCIS Inspector General, and OSI Commander agreed to address recommendations A.2, A.3, A.4, and A.5 respectively. Therefore, we consider these recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close these recommendations when these officials provide us documentation showing that all agreed-upon actions to implement the recommendations are completed.

This report contains recommendations that are considered unresolved. Recommendations A.1 and B.1 are unresolved because the Secretary of the Navy did not provide a response to the report, and recommendation B.2 is unresolved because the Army Chief of Staff did not agree to reopen a deficient investigation. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, these recommendations remain open. We will track these recommendations until an agreement is reached on the actions that you will take to address the recommendations, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, within 30 days please provide us your response concerning specific actions in process or alternate corrective actions proposed in the recommendations. Send your response to [REDACTED]

If you have questions, please contact [REDACTED]

[REDACTED] We appreciate the cooperation and assistance received during the evaluation.

A handwritten signature in black ink, appearing to read 'R. Stone', with a long horizontal flourish extending to the right.

Randolph R. Stone
Assistant Inspector General for Evaluations
Space, Intelligence, Engineering, and Oversight

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Introduction

Objective

The objective of this evaluation was to determine whether the major procurement fraud investigations conducted by the Army Criminal Investigation Division (CID), Naval Criminal Investigative Service (NCIS), and Office of Special Investigations (OSI) complied with Department, Service, and Military Criminal Investigative Organizations (MCIO) policy.¹ This evaluation focused on major procurement fraud investigations wherein the MCIOs were the lead investigative agency or worked jointly with another MCIO.

Background

DoD Instruction (DoDI) 5505.02 defines fraud as any act of “deception designed to deprive the United States unlawfully of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which a person or entity is not entitled.” The MCIOs are responsible for conducting criminal investigations, to include investigating allegations of fraud within their respective Service. These types of investigations could involve allegations such as conflicts of interest, product substitution, or bribery. Procurement fraud is present when intentional deception pertains to federal contracts. The impact of procurement fraud is financial loss to the Government or possible impairment of military safety and readiness.

Procurement fraud investigations are unique and require specific investigative and administrative requirements. Therefore, the MCIOs established units with trained special agents to investigate procurement fraud. CID established the Major Procurement Fraud Unit (MPFU), which falls under the responsibility of the 701st Military Police Group.² NCIS established the Economic Crimes Program, and OSI established the Office of Procurement Fraud.³

¹ DoDI 5505.02, “Criminal Investigations of Fraud Offenses,” August 29, 2013, incorporating change 1, effective June 10, 2016, defines MCIOs as United States Army Criminal Investigation Command (now renamed Criminal Investigation Division), Naval Criminal Investigative Service, and Air Force Office of Special Investigations (now renamed Office of Special Investigations).

² On May 26, 2022, MPFU became the Major Procurement Fraud Field Office and no longer falls under the responsibility of the 701st Military Police Group.

³ On January 3, 2021, the Economic Crimes Program became the Economic Crimes Field Office and transferred to the Global Operations Directorate.

Between FY 2017 and FY 2020, the DoD spent an average of \$125 billion for procurement and an average of \$84 billion for research, development, testing, and evaluation per year.⁴ The MCIOs closed 679 major procurement fraud investigations from January 1, 2017, to December 31, 2019.⁵ We evaluated a non-statistical sample of 133 of the 679 major procurement fraud investigations. The sample of 133 investigations consisted of 43 CID investigations, 65 NCIS investigations, and 25 OSI investigations.

Definition of Major Procurement Fraud

DoDI 7050.05 establishes policy, assigns responsibilities, and prescribes procedures for the coordination of procurement fraud remedies.⁶ DoDI 7050.05 defines “significant investigations of fraud or corruption related to procurement activities” as:

[f]raud investigations involving an alleged loss of \$500,000 or more; all investigations of corruption involving bribery, gratuities, or conflicts of interest; all defective product, non-conforming product, counterfeit materiel, or product substitution investigations; and investigations otherwise determined to be significant by the cognizant agency official.

Service and MCIO policies provide further definitions of major procurement fraud. For example, CID Regulation (CIDR) 195-1 contains technical and operational criminal investigation procedures.⁷ CIDR 195-1 defines “a major contract accounting fraud case [related to Major Procurement Fraud]” as:

any investigation involving allegations of defective pricing; cost mischarging, where the dollar loss to the [Government] is expected to exceed \$500,000.

⁴ Yearly averages obtained from the Under Secretary of Defense (Comptroller) website (using the FY 2017 to 2020 actual outlay amounts from the Financial Summary Tables. Office of the Under Secretary of Defense (Comptroller)/CFO, “FY 2022 Financial Summary Tables,” August 2021; “FY 2021 Financial Summary Tables,” April 2020; “FY 2020 Financial Summary Tables,” April 2019; “Financial Summary Tables,” April 2018.

⁵ DoDI 7050.05 defines significant fraud or corruption investigations. Additional Service or MCIO regulations further defines major procurement or significant fraud, as discussed in the following ‘Definition of Major Procurement Fraud’ section. For this report, we use the term major procurement fraud.

⁶ DoDI 7050.05, “Coordination of Remedies for Fraud and Corruption Related to Procurement Activities,” May 12, 2014, incorporating change 1, effective July 7, 2020. DoDI 7050.05 procedures also apply to the Defense Criminal Investigative Service, however they were not included in this evaluation.

⁷ CID Regulation 195-1, “Criminal Investigation Operational Procedures,” April 3, 2017.

NCIS Manual 3, Chapter 24, contains policy for economic crimes investigations, to include major procurement fraud investigations, and states that there is no minimum loss required for case initiation.⁸ Additionally, NCIS Manual 3, Chapter 24, states that:

[a]ll corruption offenses involving senior officials will be considered significant. An allegation of corruption that does not involve a senior official, will be determined to be significant based on the following factors: sensitivity of the DON [Department of Navy] program involved, impact on affected DON program, amount of money involved in the alleged bribe, number of DON personnel implicated, and whether the matter would normally be handled under the UCMJ [Uniform Code of Military Justice].

Air Force Instruction (AFI) 51-1101 contains guidance for pursuing remedies in significant procurement fraud investigations.⁹ AFI 51-1101 defines “[s]ignificant [p]rocurement [f]raud [c]ases” as:

fraud investigations involving an alleged loss of \$500,000 or more; all investigations of corruption involving bribery, gratuities, or conflicts of interest; all defective product, non-conforming product, counterfeit material, or product substitution investigations; all investigations involving a serious hazard to health, safety, or operational readiness; and investigations otherwise determined to be significant by the Secretary of the Air Force, Deputy General Counsel for Contractor Responsibility (SAF/GCR).

Definition of Centralized Organization

DoDI 7050.05 defines the centralized organization as:

[t]he organization within a DoD component responsible for monitoring and ensuring the coordination of criminal, civil, administrative, and contractual remedies for each significant investigation of fraud or corruption related to procurement activities affecting the DoD component.

For the Army, this is the Procurement Fraud Division (PFD); for the Navy, this is the Naval Acquisition Integrity Office (NAIO); and for the Air Force, this is the Secretary of the Air Force, Deputy General Counsel for Contractor Responsibility (SAF/GCR).

⁸ NCIS Manual 3, Chapter 24, “Economic Crimes Investigations,” September 18, 2017.

⁹ AFI 51-1101, “The Air Force Procurement Fraud Remedies Program,” October 19, 2017.

Definition of Restricted Distribution

DoDI 7050.05 states a restricted distribution major procurement fraud investigation as an allegation of fraud or corruption investigated during an ongoing undercover operation or an investigation using sensitive law enforcement sources and methods. To prevent the compromise of the ongoing investigation, DoDI 7050.05 provides for an exception to centralized organization notification for restricted distribution investigations. Specifically, DoDI 7050.05 states that:

this type of investigation would restrict reporting internally to the investigative organization conducting the undercover operation.... Once the specific allegations of fraud or corruption are separated and determined to no longer be a part of the ongoing undercover operation, notice will promptly be provided to the centralized organization by the investigative organization.

DoD Policy Requirements for Notifying, Discussing, and Distributing Final Reports to the Centralized Organizations

DoDI 7050.05 requires that MCIOs “immediately notify in writing the centralized organization(s) of the start of all significant investigations.” DoDI 7050.05 requires that the initial notification must include:

- (1) Case title (name of DoD contractor or subcontractor and corresponding Data Universal Numbering System (DUNS) number).
- (2) Case control number.
- (3) Investigative agency.
- (4) Office of primary responsibility (name and telephone number of the investigating official).
- (5) Date opened.
- (6) Factual basis for the investigation.
- (7) Suspected offense(s).

DoDI 7050.05 also requires the MCIOs to “discuss regularly with the centralized organization(s) such issues as the status of significant investigations and their coordination with prosecution authorities.”¹⁰ Further, DoDI 7050.05 requires that:

¹⁰ DoDI 7050.05 does not define the word regular, but requires regular discussion. For this evaluation, we considered regular discussion as communication that would be recurring at uniform intervals throughout the investigation.

Each DoD Component will monitor, from its inception, all significant investigations of fraud or corruption related to procurement activities affecting its organization. The monitoring must ensure that all possible criminal, civil, contractual, and administrative remedies are identified to cognizant procurement and command officials and to Department of Justice (DOJ) officials, as appropriate, and that appropriate remedies are pursued expeditiously. This process must include coordination with all other affected DoD Components. All investigations of fraud or corruption related to procurement activities will be reviewed by the centralized organization (see [Definition of Centralized Organization] for definition) for the affected DoD Component to determine and implement the appropriate contractual and administrative remedies to recover funds lost through fraud or corruption and to ensure the integrity of DoD programs and operations.

The Services and MCIOs issued additional policy that further defines the DoD policies. For example, Army Regulation (AR) 27-40 requires that the CID case agents “notify, in writing, local [Procurement Fraud Advisors], as well as PFD within 30 days, of initiation of a significant investigation of fraud or corruption related to Army procurement activities.”¹¹ Such notification will include the case title, report investigation number, responsible investigative agency, office of primary responsibility, date opened, summary of facts, and suspected offense. AR 27-40 also requires that CID Headquarters and PFD “[d]iscuss the status of significant procurement fraud or corruption investigations being conducted by USACIDC [CID] and possible remedies. These discussions should take place on a regular basis.”¹² Further, AR 27-40 requires that:

The Commanding General [Director], USACIDC [CID], will take the following actions: ... Discuss regularly with Procurement Fraud Advisors the status of significant investigations of fraud or corruption and their coordination with prosecutive authorities and provide documents and reports resulting from the investigations.

¹¹ Army Regulation 27-40, “Litigation,” September 19, 1994.

¹² In 2021, when a civilian became the first director of the U.S. Army’s Criminal Investigation Command, the agency’s name changed from Criminal Investigation Command to the Criminal Investigation Division.

AR 27-40 requires that a key element of the Army's procurement fraud program is "continuous case monitorship by PFD from the initial report until final disposition... ." Finally, the MPFU Standard Operating Procedure (SOP) requires that continuous coordination with the PFD should occur "throughout the investigation: cradle to grave."¹³

Secretary of the Navy Instruction (SECNAVINST) 5430.92C requires that the NCIS Director will provide written notification to the NAIIO of the initiation of a fraud investigation in a timely fashion.¹⁴ Such notification shall include the case title, case control number, office of primary responsibility, date opened, factual basis for the investigation, and suspected offenses. Further, SECNAVINST 5430.92C requires that the NCIS Director discuss fraud investigations with NAIIO on a regular basis and provide final reports to NAIIO. Finally, NCIS Manual 3, Chapter 24, requires that the cognizant supervisory special agent ensure that the assigned NAIIO attorney is included on distribution for all final reports.

AFI 51-1101 requires that the OSI detachment commander will provide significant investigative reports to the SAF/GCR. Further, Air Force Office of Special Investigation Manual (AFOSIMAN) 71-122 requires that OSI case agents notify the SAF/GCR of a significant fraud investigation by providing the initial report to the SAF/GCR within five business days.¹⁵ Finally, AFOSIMAN 71-122 requires that the SAF/GCR be included on distribution for all reports, including final reports.

¹³ MPFU Standard Operating Procedure, "Criminal Investigations – Major Procurement Fraud and Corruption," August 31, 2018.

¹⁴ SECNAVINST 5430.92C, "Assignment of Responsibilities to Counteract Acquisition Fraud, Waste, and Related Improprieties," June 11, 2018.

¹⁵ AFOSIMAN 71-122, Volume 2, "Fraud and Environmental Crime Investigations," March 27, 2018. AFOSIMAN 71-122, Volume 2, "Fraud and Corruption Investigations," June 23, 2020 revised this requirement to 15 calendar days.

Finding A

MCIO Case Agents Did Not Consistently Notify, Regularly Discuss with, and Distribute Reports to Their Centralized Organizations

MCIO case agents did not consistently notify, regularly discuss with, and distribute final reports to the centralized organizations as required by DoD, Service, and MCIO policy. Specifically, we determined that CID case agents did not consistently notify the PFD in 11 of 43 investigations (26 percent), did not regularly discuss the status with the PFD in 16 of 43 investigations (37 percent), and did not consistently distribute final reports to the PFD in 5 of 43 investigations (12 percent).

Additionally, we determined that NCIS case agents did not consistently notify the NAIO in 8 of 65 investigations (12 percent), did not regularly discuss the status with the NAIO in 7 of 65 investigations (11 percent), and did not consistently distribute final reports to the NAIO in 18 of 65 investigations (28 percent). Finally, we determined that OSI case agents did not consistently notify the SAF/GCR in 8 of 25 investigations (32 percent) and did not consistently distribute final reports to the SAF/GCR in 13 of 25 investigations (52 percent).

We discussed this deficiency with officials from the centralized organizations and asked to review documentation received from the MCIO case agents. Specifically, the PFD Chief, the NAIO Division Director, and the SAF/GCR Assistant Deputy General Counsel could not provide documentation that MCIO case agents completed the centralized organization notification and coordination requirements for the investigations identified in this deficiency.¹⁶ Therefore, coordination with the centralized organizations support our conclusion that MCIO case agents did not consistently notify, regularly discuss with, and distribute final reports to the centralized organizations for the investigations identified in this deficiency.¹⁷

We also discussed this deficiency with the MCIO officials. Generally, the MCIO officials could not identify the root cause. The Acting Special Agent in Charge (SAC) of Operations for MPFU told us that the CID case agents did not complete the DoDI 7050.05 centralized organization notification and coordination requirements because the CID case agents did not document PFD coordination or the CID supervisory special agents overlooked the requirements. The NCIS

¹⁶ We did not evaluate whether the centralized organizations were required to retain documentation received from the MCIO case agents.

¹⁷ OSI case agents consistently had regular discussions with the SAF/GCR. Therefore, the SAF/GCR Assistant Deputy General Counsel concurred that OSI case agents did not consistently notify or distribute final reports to the SAF/GCR.

Deputy Inspector General told us that NCIS officials submit a monthly list of all new investigations under NAIIO purview to the NAIIO and said that the monthly list satisfies the written notification requirement in DoDI 7050.05 and SECNAVINST 5430.92C. While NCIS officials provided us an example of the monthly list sent to the NAIIO, it did not comply with the written notification requirements required by DoDI 7050.05 and SECNAVINST 5430.92C. Specifically, the monthly list provided by NCIS officials did not include the case title, office of primary responsibility, factual basis of investigation, and suspected offenses. The OSI Economic Crimes Deputy Director could not provide an explanation for the lack of timely initial notification and final report distribution to the SAF/GCR, but told us that she believed this is more of an issue with properly documenting coordination with centralized organizations rather than an issue with the actual coordination.

MCIO case agents did not consistently present the investigations to an Assistant United States Attorney (AUSA) for litigation or the AUSA did not pursue litigation. Therefore, the major procurement fraud investigations that did not result in litigation could only result in administrative or contractual remedies. The centralized organizations ensure the offices having interest in the matter, to include MCIOs and DOJ criminal and civil fraud offices, received advance notification of all proposed remedies. This advance notice is necessary to provide affected offices the opportunity to identify potential adverse impacts to the ongoing investigation.¹⁸ However, as a result of MCIO case agents not consistently notifying, regularly discussing with, and distributing reports to their centralized organization, the centralized organizations:

- were not aware of the status of ongoing investigations;
- could not consistently provide case agents with legal advice related to possible administrative or contractual remedies; and
- could not consistently ensure that cognizant DoD officials executed potential administrative or contractual remedies.

CID Case Agents Did Not Consistently Notify, Regularly Discuss with, and Distribute Final Reports to the PFD

We reviewed 43 CID investigative case files to determine compliance with DoDI 7050.05, AR 27-40, and MPFU SOP. CID case agents are required to notify, regularly discuss with, and distribute final reports to the PFD. We found that CID case agents did not consistently comply with DoD, Service, and MCIO policy.

¹⁸ DoDI 7050.05 provides examples of an adverse impact, which include endangerment of personnel or property, monetary loss, denigration of program or personnel integrity, compromise of the procurement process, counterfeit materiel, and reduction or loss of mission readiness. DoDI 7050.05 does not contain DoJ requirements for major procurement fraud investigations.

CID Case Agents Did Not Consistently Make Initial Notifications to the PFD

DoDI 7050.05 requires that the CID case agents provide immediate written notification of the start of all significant investigations to the centralized organization. However, AR 27-40 conflicts with the DoD requirement for immediate notification. Specifically, AR 27-40 requires that CID case agents notify the PFD in writing within 30 days of initiation of a significant investigation of fraud or corruption related to Army procurement activities. The DoD and Army regulations require that the initial notification include the case title, case number, investigative agency, office of primary responsibility, date opened, factual basis for the investigation, and suspected offense. We reviewed 43 CID investigative case files and found that CID case agents did not consistently notify the PFD at the start of 11 of 43 investigations (26 percent). In 2 of the 11 investigations, we found no indication that CID case agents provided initial notification to the PFD. For the remaining investigations, we determined that the PFD received the initial notification after the 30-day requirement. Specifically, CID case agents initially notified the PFD an average of 601 days after initiating the investigation.

We discussed this deficiency with the PFD Chief and asked to review documentation that the PFD received from CID case agents for these 11 investigations. The PFD Chief could not provide documentation that the PFD received immediate written notification, which supports this finding. We also discussed this deficiency with the 701st Military Police Group Deputy Director, who told us that he agreed that CID case agents did not notify the PFD in writing at the start of 5 of the 11 investigations (45 percent). Further, the 701st Military Police Group Deputy Director provided the following comments about the remaining six investigations:

- In two of six investigations, the 701st Military Police Group Deputy Director stated that the investigations were initiated based on information provided by the PFD. While the PFD may have been aware of the allegations prompting the two investigations, we determined that this does not satisfy the written notification requirements in DoDI 7050.05 and AR 27-40. Specifically, the PFD would not have been aware of required information, such as the case title, case control number, office of primary responsibility, date opened, and factual basis of investigation.
- In two of six investigations, the 701st Military Police Group Deputy Director stated that CID case agents coordinated with a Judge Advocate, two procurement attorneys, and an engineer. However, our review of the investigative case files determined that these individuals are not part of the PFD. Such coordination does not comply with the DoDI 7050.05 and AR 27-40 requirement to immediately notify the PFD in writing

because, as the centralized organization, only the PFD is responsible for ensuring the consideration of criminal, civil, contractual, and administrative remedies.

- In two of six investigations, the 701st Military Police Group Deputy Director stated that the PFD was on distribution for the initial report. However, for the first investigation, we determined that the PFD was not on distribution. For the second investigation, the PFD was on distribution, but the notification was not timely. Specifically, the case agent notified the PFD 36 days after initiating the investigation.

CID Case Agents Did Not Consistently Have Regular Discussions with the PFD

DoDI 7050.05 requires that the CID case agents have regular discussions with the centralized organization, including such issues as the status of significant investigations and their coordination with prosecutive authorities. AR 27-40 confirms the DoD requirement and requires that:

- CID Headquarters and the PFD should “[d]iscuss the status of significant procurement fraud or corruption investigations being conducted by USACIDC [CID] and possible remedies. These discussions should take place on a regular basis.”
- The “CID Commanding General” [now Director] should regularly discuss the status of significant investigations of fraud or corruption with the PFD.
- A key element to the Army’s procurement fraud program is “continuous case monitorship by PFD from the initial report until final disposition.”

Further, the MPFU SOP requires that continuous coordination with the PFD should occur “throughout the investigation: cradle to grave.” We reviewed 43 CID investigative case files and found that CID case agents did not consistently have regular discussions with the PFD in 16 of 43 investigations (37 percent). Twelve of the 16 investigations were open for an average of 842 days and there was no evidence of any discussions with the PFD. The remaining four investigations were open for an average of 1,534 days, but had an average of only six documented PFD discussions. Additionally, the documented PFD discussions were concentrated towards the end of the investigation, not throughout the investigation, as DoDI 7050.05 and AR 27-40 require.

We discussed this deficiency with the PFD Chief and asked to review documentation of discussions with CID case agents for these 16 investigations. The PFD Chief could not provide documentation that CID case agents had regular discussions with the PFD, which supports this finding. We also discussed this deficiency with the

701st Military Police Group Deputy Director, who told us he agreed that regular discussions with the PFD did not occur in 5 of 16 investigations we identified with this deficiency. The MPFU Acting SAC of Operations told us that the CID case agents did not complete the DoDI 7050.05, AR 27-40, and MPFU SOP centralized organization notification and coordination requirements because the CID case agents did not document PFD coordination or the CID supervisory special agents overlooked the requirements. Further, the 701st Military Police Group Deputy Director provided the following comments about the remaining 11 investigations:

- In 4 of 11 investigations, the 701st Military Police Group Deputy Director stated that CID case agents provided the PFD with updated status reports. The 701st Military Police Group Deputy Director provided a status report for one investigation for our verification. However, we determined that sending a status report to the PFD does not comply with the DoDI 7050.05, AR 27-40, and MPFU SOP requirements for regular discussion, because a status report is not a substitute for a discussion between two parties.
- In 4 of 11 investigations, the 701st Military Police Group Deputy Director stated that CID case agents coordinated with a Judge Advocate, Army Materiel Command, Program officials, and an Attorney-Advisor. However, our review of the investigative case files determined that these individuals are not part of the PFD. Such coordination does not comply with the DoDI 7050.05, AR 27-40, and MPFU SOP requirements for regular discussion with the PFD because as the centralized organization, only the PFD is responsible for ensuring the consideration of criminal, civil, contractual, and administrative remedies.
- In 3 of 11 investigations, the 701st Military Police Group Deputy Director stated that the PFD was not involved until removal of a restricted distribution classification.¹⁹ However, the 701st Military Police Group Deputy Director could not provide evidence of regular discussions with the PFD after the removal of the restricted distribution classification. Additionally, we determined that the investigative case file does not support regular discussions with the PFD after removal of the restricted distribution classification.

¹⁹ We did not evaluate whether a restricted distribution classification was necessary because it was outside the scope of our evaluation.

CID Case Agents Did Not Consistently Distribute Final Reports to the PFD

AR 27-40 requires that the “CID Commanding General” provide final reports of significant investigations to the PFD. We reviewed 43 CID investigative case files and determined that CID case agents did not consistently distribute a final report to the PFD in 5 of 43 investigations (12 percent).

We discussed this deficiency with the PFD Chief and asked to review documentation that the PFD received from CID case agents for these five investigations. The PFD Chief could not provide documentation that the PFD received the final report, which supports this finding. We also discussed this deficiency with the 701st Military Police Group Deputy Director, who agreed that CID case agents did not distribute final reports to the PFD in three of these five investigations. For the other two investigations, the 701st Military Police Group Deputy Director provided an explanation in an email. He told us that in the first investigation, a Procurement Fraud Attorney was on the distribution for a corrected final report. However, we could not validate this information because CID officials did not provide this report. The 701st Military Police Group Deputy Director told us that in the second investigation, a Procurement Fraud Attorney was on distribution for the 2nd supplemental final report. However, we found no references to a Procurement Fraud Attorney on the 2nd supplemental final report.

The PFD Could Not Ensure All Remedies Were Considered

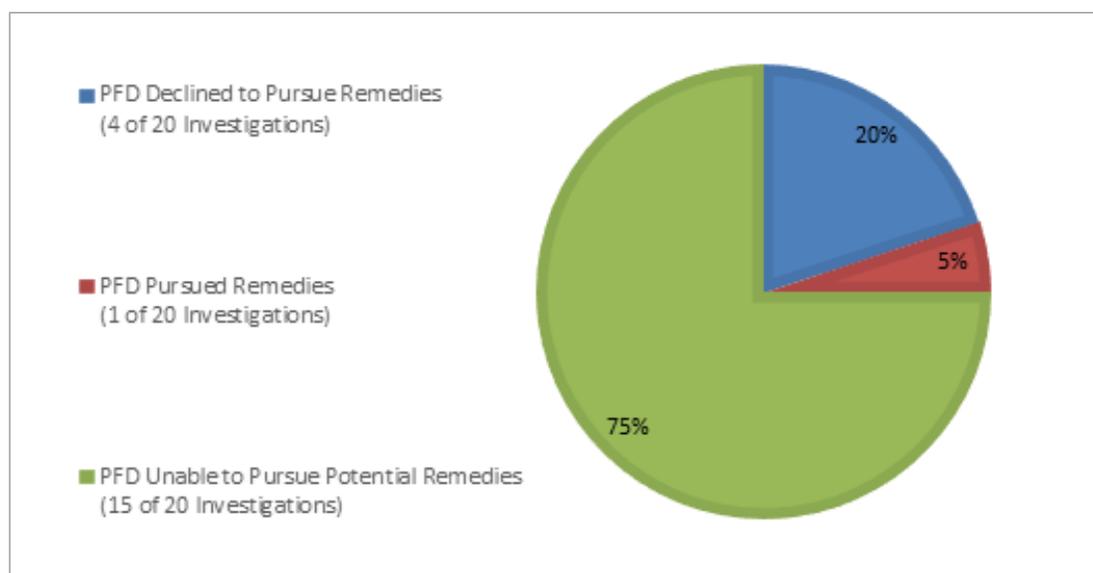
Of the 43 CID investigations we reviewed, 20 investigations (47 percent) did not meet the DoDI 7050.05, AR 27-40, and MPFU SOP requirements previously discussed for initial notifications, regular discussions, or final report distribution to the PFD.²⁰ The CID case agents did not present 3 of the 20 investigations (15 percent) to the AUSA for prosecution. Additionally, the AUSA did not pursue litigation for 17 of 20 investigations (85 percent) that had one or more of these deficiencies. Therefore, because none of the 20 investigations resulted in a federal civil or criminal prosecution, only administrative or contractual remedies were viable options for the CID case agents to pursue. As the centralized organization, the PFD is the mechanism through which a CID case agent can coordinate an administrative or contractual remedy.

Due to the CID case agents not complying with DoDI 7050.05, AR 27-40, and MPFU SOP requirements for initial notifications, regular discussions, or final report distribution to the PFD, the PFD was not aware of investigation developments. These

²⁰ The number of investigations with no initial notification, no regular discussions with, or no final report distribution to the PFD totaled 20. Note that some investigations had multiple deficiencies.

developments, to include coordination with an AUSA and any declination to pursue litigation, are essential for the PFD to pursue administrative or contractual remedies. Thus, due to the apparent lack of awareness of investigation developments, the PFD did not pursue potential remedies for 15 of 20 investigations (75 percent). For the remaining five investigations, the PFD pursued remedies in one investigation and declined to pursue remedies for four investigations. Figure 1 illustrates the remedies achieved in the aforementioned 20 investigations.

Figure 1. Remedies Achieved in the 20 Investigations with Centralized Organization Deficiencies



Source: DoD OIG generated graphic based on CID investigative case files.

CID officials told us that the apparent lack of PFD coordination was a result of the CID case agents failing to document the coordination or an oversight by the CID supervisory special agents. As a result of CID case agents not consistently notifying and coordinating with the PFD, the PFD could not consistently provide CID case agents with legal advice related to possible administrative or contractual remedies or ensure that cognizant DoD officials executed potential administrative or contractual remedies.

CID Case Agents Reminded to Notify, Regularly Discuss with, and Provide Final Reports to the PFD

As a result of this evaluation, a Major Procurement Fraud Field Office Special Agent reminded CID case agents of requirements to notify, regularly discuss with, and provide final reports to the PFD. Specifically, on September 14, 2022, the centralized organization requirements in DoDI 7050.05, AR 27-40, and MPFU SOP were emphasized in an email to CID case agents.

NCIS Case Agents Did Not Consistently Notify, Regularly Discuss with, and Provide Final Reports to the NAIIO

We reviewed 65 NCIS investigative case files to determine compliance with DODI 7050.05, SECNAVINST 5430.92C and NCIS Manual 3, Chapter 24. NCIS case agents are required to notify, regularly discuss, and provide final reports to the NAIIO. We found that NCIS case agents did not consistently comply with DoD, Service, and MCIO policy.

NCIS Case Agents Did Not Consistently Make Initial Notifications to the NAIIO

DoDI 7050.05 requires that the NCIS case agents provide immediate written notification of the start of all significant investigations to the centralized organization. However, SECNAVINST 5430.92C conflicts with the DoD requirement to provide immediate notification. Specifically, SECNAVINST 5430.92C requires that the NCIS Director will provide written notification to the NAIIO at the initiation of a fraud investigation in a timely fashion. The DoD and Navy regulations require that the initial written notification include the case title, case number, investigative agency, office of primary responsibility, date opened, factual basis for the investigation, and suspected offense. We reviewed 65 NCIS investigative case files and found that NCIS case agents did not consistently notify the NAIIO at the start of 8 of 65 investigations (12 percent). In three of these eight investigations, we found no indication that NCIS case agents provided initial notification to the NAIIO. We reviewed the NAIIO records and determined that in the remaining five investigations, the NCIS case agents made the initial notification after the required timeframe. Specifically, NCIS case agents initially notified the NAIIO an average of 182 days after initiating the investigation.

We discussed this deficiency with the NAIIO Division Director and asked to review documentation that the NAIIO received from NCIS case agents for these eight investigations. The NAIIO Division Director could not provide documentation that the NAIIO received immediate written notification, which supports this finding. We also discussed this deficiency with the NCIS Economic Crimes Field Office SAC

and the NCIS Deputy Inspector General, both of whom could not confirm that the NCIS case agents made the initial written notification for the eight investigations. The NCIS officials could not explain why the NCIS case agents did not provide the initial written notification to the NAIIO. However, the NCIS officials told us that the NCIS Headquarters officials submit a monthly listing of all new investigations under NAIIO purview to the NAIIO, and in the NCIS officials' opinion, this monthly listing satisfies the initial written notification requirement.

NCIS officials provided us an example of the monthly list sent to the NAIIO. After reviewing the list, we determined that it did not comply with the initial written notification requirements in DoDI 7050.05 and SECNAVINST 5430.92C. Specifically, the monthly list provided by NCIS officials did not include required information such as the case title, office of primary responsibility, factual basis of investigation, and suspected offenses. Because NCIS officials could not provide evidence that the NAIIO received the initial written notification in these eight investigations, and because their monthly spreadsheet did not comply with the written notification requirements, we determined that the NCIS case agents did not notify the NAIIO as required for the eight investigations.

NCIS Case Agents Did Not Consistently Have Regular Discussions with the NAIIO

DoDI 7050.05 requires that the NCIS case agent have regular discussions with the centralized organization, to include such issues as the status of significant investigations and their coordination with prosecutive authorities. SECNAVINST 5430.92C confirms the DoD requirement and requires that the NCIS Director discuss fraud investigations with the NAIIO on a regular basis. We reviewed 65 NCIS investigative case files and found that NCIS case agents did not consistently have regular discussions with the NAIIO in 7 of 65 investigations (11 percent). In 5 of the 7 investigative case files, the investigations were open for an average of 242 days and showed no evidence of any discussions with the NAIIO. We reviewed the investigative case files and NAIIO records to determine that the remaining two investigations were open for an average of 851 days and had an average of three discussions with the NAIIO. Additionally, the documented NAIIO discussions were concentrated towards the beginning or end of the investigation, not throughout the investigation as DoDI 7050.05 and SECNAVINST 5430.92C require.

NCIS Manual 1, Chapter 45, requires the NCIS case agent to list all activities relating to an investigation, including discussions with the NAIIO, in chronological order in the Case Activity Record (CAR).²¹ However, we could not substantiate

²¹ NCIS Manual 1, Chapter 45, "Managing Investigations and Operations," October 2010.

that the discussions occurred because the CAR documentation was purged one year after case closure.²² Without the CAR, we reviewed the remaining documents within the investigative case files and found the NCIS case agents did not indicate why discussions with the NAIIO did not occur throughout the investigations.

We discussed this deficiency with the NAIIO Division Director and asked to review documentation of discussions with NCIS case agents for these seven investigations. The NAIIO Division Director could not provide documentation that the NCIS case agents had regular discussions with the NAIIO, which supports this finding. We also discussed this deficiency with the NCIS Deputy Inspector General, who told us she agreed that the NCIS case agents did not document all NAIIO discussions throughout the seven investigations and could not explain why this occurred. The NCIS Deputy Inspector General told us that NAIIO officials confirmed to the Deputy Inspector General that they received a briefing for five of these seven investigations. However, the NCIS Deputy Inspector General could not provide evidence these briefings occurred. Additionally, we reviewed NAIIO records and could not validate the NCIS Deputy Inspector General's statement. Without this evidence, we could not verify that the NCIS case agents had regular discussions with the NAIIO in these seven investigations as required.

NCIS Agent Did Not Consistently Distribute Final Reports to the NAIIO

SECNAVINST 5430.92C requires that the NCIS Director provide final reports to the NAIIO. Additionally, NCIS Manual 3, Chapter 24, requires that the cognizant NCIS supervisory special agent will ensure that the assigned NAIIO attorney is included on distribution for all final reports. We reviewed 65 NCIS investigative case files and determined that NCIS case agents did not consistently distribute a final report to the NAIIO in 18 of 65 investigations (28 percent). As there was no documentation in the investigative case file to verify that NAIIO received the final report, we reviewed NAIIO records, and determined that the NAIIO received a final report for 9 of the 18 investigations. Specifically, NCIS case agents provided the final report for the nine investigations to the NAIIO an average of 252 days after initial distribution of the final report. This significant lapse of time between the date of the final report and the date when NCIS provided the final report to the NAIIO did not meet the intent of the SECNAVINST 5430.92C and NCIS Manual 3, Chapter 24, requirement to include the NAIIO on final report distribution.

²² The Case Activity Record (CAR) is an administrative form within the case file; specifically, it is a chronological list of all activities relating to an investigation. Such activities, for example, would include phone calls and contacts with concerned parties, notifications and coordination, interviews and interrogations, and guidance or tasks from prosecutive authorities.

We discussed this deficiency with the NAIIO Division Director and asked to review documentation that the NAIIO received from NCIS case agents for these 18 investigations. The NAIIO Division Director could not provide documentation that the NAIIO received the final report in a timely manner, which supports this finding. We also discussed this deficiency with the NCIS Deputy Inspector General, who agreed that the NCIS case agents did not provide the NAIIO with the final report in 17 of the 18 investigations. For the remaining investigation, the NCIS Deputy Inspector General told us that the NAIIO was included on the final report distribution list. However, we found that the NAIIO was not included on the final report distribution list. Additionally, we reviewed NAIIO records and could not validate that the NAIIO received the final report for this investigation in a timely manner. The NCIS Deputy Inspector General confirmed NCIS case agents generally did not distribute final reports, but could not provide a reason why the final reports were not distributed to the NAIIO as required.

NCIS Headquarters Does Not Keep the Case Activity Record

NCIS Manual 1, Chapter 45 requires the NCIS case agent to list all activities relating to an investigation, including discussions with the NAIIO, in chronological order in the CAR. NCIS Manual 1, Chapter 45 also states that the CAR may be destroyed one year after case closure if the investigative case file is no longer needed. NCIS officials could not provide the CAR for the 65 NCIS investigative case files we reviewed because:

- NCIS officials do not generally keep the CAR for more than one year after case closure,
- The investigations selected had been closed for over a year and the CAR was no longer reflected in the investigative case file, and
- NCIS Manual 1, Chapter 45, allows for the destruction of certain documents, one of which is the CAR, within an investigative case file one year after case closure.

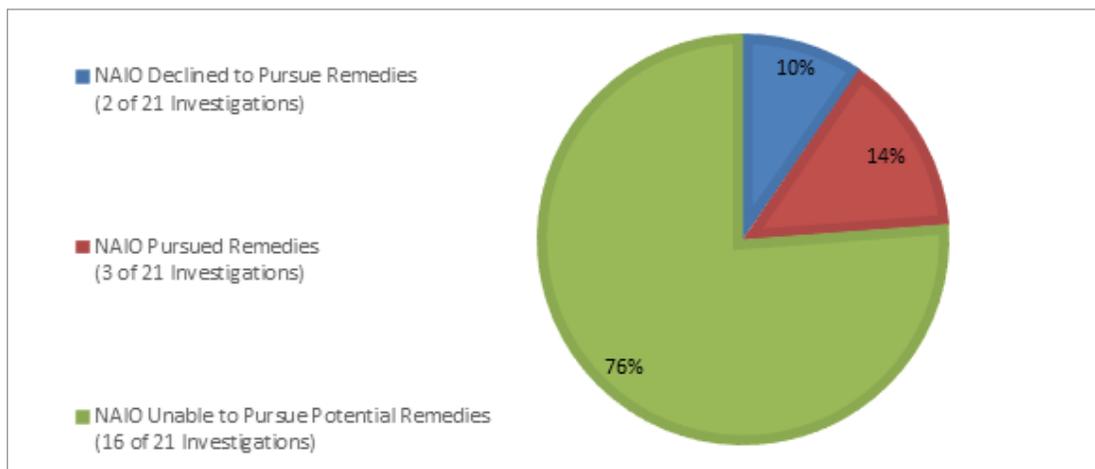
We could not substantiate whether regular discussions with the NAIIO occurred in seven investigations because the CAR documentation was purged. For these seven investigations, the NCIS Deputy Inspector General told us that NAIIO officials confirmed that NCIS case agents briefed NAIIO officials during the investigations. Without the CAR, we reviewed NAIIO records and could not validate the NCIS Deputy Inspector General's statement. Had these briefings occurred, the NCIS case agents most likely would have documented the briefings in the CAR. However, because NCIS officials did not provide the CAR for the 65 investigative case files we reviewed, we could not confirm these briefings occurred.

The NAIIO Cannot Ensure All Remedies Were Considered

Of the 65 NCIS investigations we reviewed, 21 investigations (32 percent) did not meet the DoDI 7050.05, SECNAVINST 5430.92C, and NCIS Manual 3, Chapter 24, requirements previously discussed for initial notifications, regular discussions, or final report distribution to the NAIIO.²³ The NCIS case agents did not present 11 of the 21 investigations (52 percent) to the AUSA for prosecution. Additionally, the AUSA did not pursue litigation for 10 of the 21 investigations (48 percent) that had one or more of these deficiencies. Therefore, because none of the 21 investigations resulted in a federal civil or criminal prosecution, only administrative or contractual remedies were viable options for the NCIS case agent to pursue. As the centralized organization, the NAIIO is the mechanism through which a NCIS case agent can coordinate an administrative or contractual remedy.

Due to the NCIS case agents not complying with DoDI 7050.05, SECNAVINST 5430.92C, and NCIS Manual 3, Chapter 24, requirements for initial notifications, regular discussions, or final report distribution to the NAIIO, the NAIIO was not aware of investigation developments. These developments, to include coordination with an AUSA and any declination to pursue litigation, are essential for the NAIIO to pursue administrative or contractual remedies. Thus, due to the apparent lack of awareness of investigation developments, the NAIIO did not pursue potential remedies for 16 of 21 investigations (76 percent). Of the remaining five investigations, the NAIIO pursued remedies in three investigations and declined to pursue remedies for two investigations. Figure 2 illustrates the remedies achieved in the aforementioned 21 investigations.

Figure 2. Remedies Achieved in the 21 Investigations with Centralized Organization Deficiencies



Source: DoD OIG generated graphic based on NCIS investigative case files.

²³ The number of investigations with no initial notification, no regular discussions with, or no final report distribution to the NAIIO totaled 21. Note that some investigations had multiple deficiencies.

NCIS officials could not provide an explanation for the apparent lack of coordination. As a result of NCIS case agents not consistently notifying and coordinating with the NAIIO, the NAIIO could not consistently provide NCIS case agents with legal advice related to possible administrative or contractual remedies or ensure that cognizant DoD officials executed potential administrative or contractual remedies.

OSI Case Agents Did Not Consistently Notify or Distribute Final Reports to the SAF/GCR

We reviewed 25 OSI investigative case files to determine compliance with DoDI 7050.05, AFI 51-1101, and AFOSIMAN 71-122. OSI case agents are required to notify, regularly discuss, and distribute final reports to the SAF/GCR. We found that OSI case agents did not consistently comply with DoD, Service, and MCIO policy.

OSI Case Agents Did Not Consistently Make Initial Notifications to the SAF/GCR

DoDI 7050.05 requires that the OSI case agents provide immediate written notification of the start of all significant investigations to the centralized organization. AFOSIMAN 71-122 confirms the DoD requirement and requires that OSI case agents will notify the SAF/GCR of a significant fraud investigation by providing the initial report to the SAF/GCR within five business days. The DoD regulation requires that the initial notification include the case title, case number, investigative agency, office of primary responsibility, date opened, factual basis for the investigation, and suspected offense. We reviewed 25 OSI investigative case files and found that OSI case agents did not consistently notify the SAF/GCR at the start of 8 of 25 investigations (32 percent). In two of the eight investigations, we found no indication that OSI case agents provided initial notification to the SAF/GCR. For the remaining six investigations, we determined that the SAF/GCR received the initial notification after the five business day requirement. Specifically, OSI case agents initially notified the SAF/GCR an average of 63 business days after initiating the investigation.

We discussed this deficiency with the SAF/GCR Assistant Deputy General Counsel and asked to review documentation that the SAF/GCR received from OSI case agents for these eight investigations. The SAF/GCR Assistant Deputy General Counsel could not provide documentation that SAF/GCR received immediate written notification, which supports this finding. We also discussed this deficiency with the OSI Economic Crimes Deputy Director, who agreed that OSI case agents did not distribute two initial reports to the SAF/GCR, but could not tell us why this occurred. Additionally, the OSI Economic Crimes Deputy Director told us that for

the remaining six investigations, the OSI case agents listed the SAF/GCR on the initial report distribution list. We reviewed the initial reports and confirmed that the OSI case agents listed SAF/GCR on distribution. However, the distribution to the SAF/GCR was not within the five-business day distribution requirement.

OSI Case Agents Did Consistently Have Regular Discussions with the SAF/GCR

DoDI 7050.05 requires that the OSI case agent have regular discussions with the centralized organization, to include such issues as the status of significant investigations and their coordination with prosecutive authorities. We reviewed 25 OSI investigative case files and determined that OSI case agents generally had regular discussions with the SAF/GCR. Specifically, we found that OSI case agents had regular discussions about the investigation status with the SAF/GCR in 24 of 25 investigations (96 percent).

OSI Case Agents Did Not Consistently Distribute Final Reports to the SAF/GCR

AFI 51-1101 requires that the OSI detachment commander provide significant investigative reports to the SAF/GCR. AFOSIMAN 71-122 requires that the SAF/GCR be included on distribution for all reports, including final reports. We reviewed 25 OSI investigative case files and determined that OSI case agents did not consistently distribute a final report to the SAF/GCR in 13 of 25 investigations (52 percent).

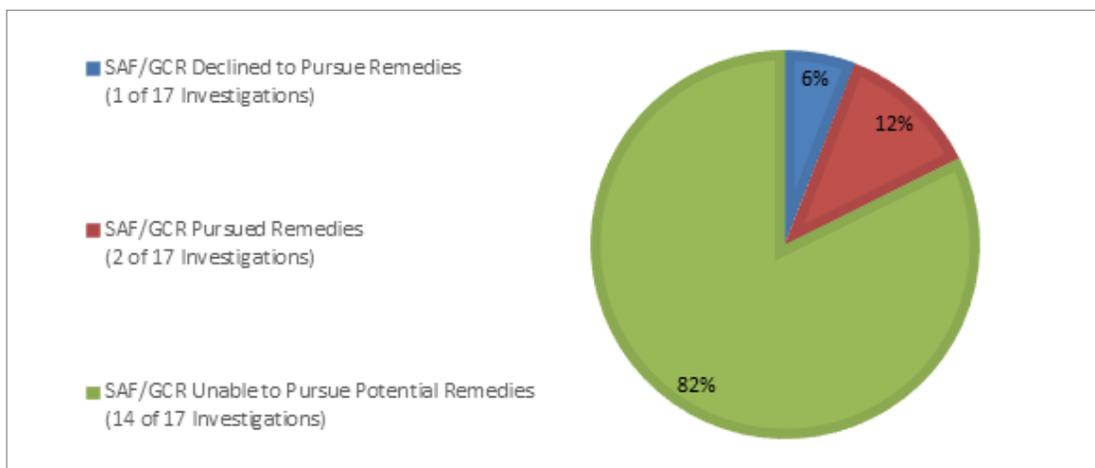
We discussed this deficiency with the SAF/GCR Assistant Deputy General Counsel and asked to review documentation that the SAF/GCR received from OSI case agents for these 13 investigations. The SAF/GCR Assistant Deputy General Counsel could not provide documentation that the SAF/GCR received the final report, which supports this finding. We also discussed this deficiency with the OSI Economic Crimes Deputy Director, who told us that the SAF/GCR did not have a centralized system to track and store final reports. The OSI Economic Crimes Deputy Director could not provide a reason why the OSI case agents did not distribute 12 of the 13 final reports to the SAF/GCR. Further, the OSI Economic Crimes Deputy Director told us that in one investigation, OSI case agents did not provide the final report to SAF/GCR because SAF/GCR officials had already decided not to pursue any remedies. While the SAF/GCR's decision not to pursue remedies was included in the final report, AFOSIMAN 71-122 requires OSI case agents to include the SAF/GCR on the distribution of the final report.

The SAF/GCR Could Not Ensure All Remedies Were Considered

Of the 25 OSI investigations we reviewed, 17 investigations (68 percent) did not meet the DoDI 7050.05, AFI 51-1101, and AFOSIMAN 71-122 requirements previously discussed for initial notification or final report distribution.²⁴ The OSI case agents did not present 3 of the 17 investigations (18 percent) to the AUSA for prosecution. Additionally, the AUSA did not pursue litigation for 14 of the 17 investigations (82 percent) that had one or both of these deficiencies. Therefore, because none of the 17 investigations resulted in a federal civil or criminal prosecution, only administrative or contractual remedies were viable options for the OSI case agents to pursue. As the centralized organization, the SAF/GCR is the mechanism through which an OSI case agent can coordinate an administrative or contractual remedy.

Due to the OSI case agents not complying with DoDI 7050.05, AFI 51-1101, and AFOSIMAN 71-122 requirements for initial notifications or final report distribution to the SAF/GCR, the SAF/GCR was not aware of investigation developments. These developments, to include coordination with an AUSA and any declination to pursue litigation, are essential for the SAF/GCR to pursue administrative or contractual remedies. Thus, due to the apparent lack of awareness of investigation developments, the SAF/GCR did not pursue potential remedies for 14 of the 17 investigations (82 percent). Of the remaining three investigations, the SAF/GCR pursued remedies in two investigations and declined to pursue remedies for the remaining investigation. Figure 3 illustrates the remedies achieved in the aforementioned 17 investigations.

Figure 3. Remedies Achieved in the 17 Investigations with Centralized Organization Deficiencies



Source: DoD OIG generated graphic based on OSI investigative case files.

²⁴ The number of investigations with no initial notification or no final report distribution to the SAF/GCR totaled 17. Note that some investigations had both deficiencies.

The OSI Economic Crimes Deputy Director could not provide an explanation for the apparent lack of coordination, but told us that she believed this is more of an issue with properly documenting coordination with the SAF/GCR rather than an issue with the actual coordination. As a result of OSI case agents not consistently notifying and coordinating with the SAF/GCR, the SAF/GCR could not consistently provide CID case agents with legal advice related to possible administrative or contractual remedies or ensure that cognizant DoD officials executed potential administrative or contractual remedies.

OSI Updated a Checklist and Training Material

As a result of this evaluation, an OSI Headquarters official has implemented two corrective actions. Specifically, an OSI Headquarters official:

- updated the checklist that the Office of Procurement Fraud uses in fraud and corruption investigation inspections in May 2022 to clarify that the SAF/GCR is the centralized organization and that the SAF/GCR should receive all major procurement fraud investigation reports, and
- reviewed fraud investigation training to ensure that OSI case agents are introduced to centralized organization notification and distribution requirements.

Recommendations, Management Comments, and Our Response

Redirected and Renumbered Recommendations

As a result of management comments, we renumbered draft Recommendations A.1 and A.2. We redirected Recommendation A.2 to the Army Office of The Judge Advocate General, which has the authority to implement the recommendation.

Recommendation A.1

We recommend that the Secretary of the Navy conduct a review of Secretary of the Navy Instruction 5430.92C to determine if a revision is necessary to align the initial written notification requirement with Department of Defense Instruction 7050.05. Specifically, update the instruction to require immediate written notification to the centralized organization at the start of all significant fraud investigations.

Management Comments Required

The Secretary of the Navy did not respond to the recommendation in the report. Therefore, this recommendation is unresolved. We request that the Secretary of the Navy provide comments on the final report within 30 days.

Recommendation A.2

We recommend that the Army Judge Advocate General conduct a review of Army Regulation 27-40 to determine if a revision is necessary to align the initial written notification requirement with Department of Defense Instruction 7050.05. Specifically, update the regulation to require immediate written notification to the centralized organization at the start of all significant fraud investigations.

Army Office of The Judge Advocate General Comments

The Procurement Fraud Division Chief, responding for the Army Judge Advocate General, agreed and stated that the recommended change has been incorporated into a draft revision of Army Regulation 27-40.

Our Response

Comments from the Procurement Fraud Division Chief addressed all specifics of the recommendation. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we verify that the Army Office of The Judge Advocate General revises Army Regulation 27-40 to include the DoDI 7050.05 initial written notification requirement.

Recommendation A.3

We recommend that the Army Criminal Investigation Division Director:

- a. Conduct a review of supervisor procedures to ensure Army Criminal Investigation Division case agents consistently notify, coordinate with, and distribute final reports to the Procurement Fraud Division.**

Army Criminal Investigation Division Comments

The Army CID Chief of Staff, responding for the Army CID Director, agreed and stated that the Major Procurement Fraud Field Office has reinforced requirements to ensure effective communication and coordination with the PFD. Additionally, the Major Procurement Fraud Field Office is in the process of implementing a global case checklist and a standardized PFD notification letter to ensure case agents meet centralized organization requirements.

Our Response

Comments from the Army CID Chief of Staff addressed all specifics of the recommendation. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we verify implementation of the global case checklist and standardized PFD notification letter.

- b. Review and update current investigative procedures to better align with policy requirements.**

Army Criminal Investigation Division Comments

The Army CID Chief of Staff, responding for the Army CID Director, disagreed and stated that current investigative procedures are aligned with policy requirements. Alternatively, the Chief of Staff stated that supervisors will ensure that CID case agents and their investigative case files meet standards. Furthermore, guidance related to the findings and recommendations in this report will be provided to supervisors.

Our Response

Comments from the Army CID Chief of Staff addressed all specifics of the recommendation. Although the Chief of Staff disagreed with the recommendation, the proposed alternative actions satisfy the intent of the recommendation. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we verify that CID provided guidance related to this report's findings and recommendations to supervisors in the Major Procurement Fraud Field Office and we verify that the guidance relates to aligning investigative procedures with policy requirements.

Recommendation A.4

We recommend that the Naval Criminal Investigative Service Director:

- a. Conduct a review of supervisor review procedures to ensure Naval Criminal Investigative Service case agents consistently notify, coordinate with, and distribute final reports to the Naval Acquisition Integrity Office.**
- b. Conduct a review of Naval Criminal Investigative Service Manuals to determine if the Case Activity Record should be included as part of the official investigative case file and included with submission to the Records Management Branch.**

Naval Criminal Investigative Service Comments

The NCIS Inspector General, responding for the NCIS Director, agreed and stated that the need for notification and distribution to the NAIO has been reiterated to supervisors. Additionally, the Inspector General stated that the retention of the Case Activity Record is being considered in the larger context of paperless reporting and the development of a new case management system set to launch in 2023.

Our Response

Comments from the NCIS Inspector General addressed all specifics of the recommendation. Therefore, this recommendation is resolved, but will remain open. We will close recommendation A.4.a once we verify that a supervisory review of procedures was completed to ensure NCIS case agents make the NAIIO notification, coordination, and distribution requirements and that those requirements have been reiterated to supervisors. We will close recommendation A.4.b once we review the Case Activity Record retention decision and determine that it meets the intent of the recommendation.

- c. Review and update current investigative procedures to better align with policy requirements.**

Naval Criminal Investigative Service Comments

The NCIS Inspector General, responding for the NCIS Director, agreed and stated that in March 2022, NAIIO notification and coordination for administrative remedy purposes was included in an update to NCIS policy.

Our Response

Comments from the NCIS Inspector General addressed all specifics of the recommendation. We verified that a March 2022 update to NCIS Manual 3, Chapter 24, included updates to NAIIO notification and distribution policies to align with current investigative procedures. Therefore, recommendation A.4.c is closed.

Recommendation A.5

We recommend that the Office of Special Investigations Commander:

- a. Conduct a review of supervisor review procedures to ensure Office of Special Investigation case agents consistently notify and distribute final reports to the Secretary of the Air Force, Deputy General Counsel for Contractor Responsibility.**
- b. Review and update current investigative procedures to better align with policy requirements.**

Office of Special Investigations Comments

The OSI Commander agreed and stated that a draft policy change for supervisor review procedures is pending publication with an estimated publication date in FY 2023. Additionally, the Commander stated that requirements have been reemphasized in basic and advanced training courses and policy, including the AFOSI Contracting Overview Workshop. The estimated implementation for additional training material and courses is July 2023.

Our Response

Comments from the OSI Commander addressed all specifics of the recommendation. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we verify issuance of the policy change for supervisor review procedures and that the updates to training material and courses includes aligning investigative procedures with policy requirements.

Finding B

MCIO Investigations Generally Met Investigative Standards

We evaluated a non-statistical selected sample of 133 of the 679 major procurement fraud investigations. We determined that 3 of the 133 investigations (two percent) had significant deficiencies and did not meet the standards identified by policy.

Specifically, each of these three investigations had deficiencies that were significant and had an adverse impact on the investigations. For example, CID and NCIS case agents did not obtain or review relevant information, interview key witnesses, or notify the respective centralized organizations. The noted deficiencies support our determination that the investigations did not meet overall investigative standards. We provided information concerning the three investigations with significant deficiencies to CID and NCIS officials. We asked CID and NCIS officials to consider our findings and, if practical, reopen those investigations to conduct additional investigative activity to address the deficiencies. CID officials did not agree to reopen its investigation that did not meet investigative standards. NCIS officials agreed to reopen its two investigations that did not meet investigative standards.

We determined that the cause of these significant deficiencies was that CID and NCIS case agents did not exercise due professional care in conducting the three investigations. Because of significant deficiencies further described in the following section, we determined that CID and NCIS case agents did not adequately examine the allegations in the three investigations, and thus, the investigations did not meet investigative standards. For the remaining 130 investigations we reviewed, case agents appropriately completed and documented investigative steps that supported the overall conclusion of the investigation.

Three Investigations Did Not Meet Investigative Standards

Of the 133 MCIO investigations evaluated, we determined that one CID investigation and two NCIS investigations (two percent) did not meet investigative standards. We found each of these investigations contained several significant

deficiencies.²⁵ We returned the investigations to each MCIO with an explanation of the deficiencies along with the supporting guidance and applicable policies.

We noted the following examples of significant deficiencies:

- relevant information impacting the investigation was not obtained, reviewed, or evaluated;
- relevant witnesses were not interviewed and discrepancies in the witness statement were not challenged;
- investigative activity and supervisory reviews were not timely;
- lack of coordination with the centralized organization; and
- a national security allegation was not properly evaluated and documented.

The following table depicts the number of investigations returned to the MCIO with significant deficiencies and the investigations reopened to complete all investigative steps.

Number of Investigations with Significant Deficiencies

Investigations	CID	NCIS	OSI	Total
Returned	1	2	0	3
Reopened	0	2	0	2

Source: DoD OIG, based on CID, NCIS, and OSI investigative case files.

One CID Investigation Did Not Meet Standards

Of the 43 CID investigations evaluated, we determined 1 investigation (2 percent) did not meet investigative standards. Because this investigation did not meet DoD and CID investigative standards, we determined that the CID case agent did not exercise due professional care.²⁶

During our review of this investigation, we found four significant deficiencies. As an example of one significant deficiency, we determined that the investigative case file had insufficient evidence to corroborate or refute the allegations that two lieutenant colonels had a conflict of interest with a DoD contractor. DoDI 7050.05 directs the gathering of relevant information to evaluate the individuals and DoD contractors under investigation for fraud. The CID case agent appropriately planned investigative

²⁵ For the purposes of our evaluation, we define a significant deficiency as one or more deficiencies, or a series of deficiencies, resulting from a failure in the execution of elements of DoD, Service, or MCIO policies and standards of investigations. A significant deficiency indicates shortcomings in practices, programs, or policies having actual notable adverse impact on, or having a likelihood of materially affecting, the integrity of the investigation or adversely affecting or having a high probability of adversely affecting the outcome of an investigation.

²⁶ Council of the Inspectors General on Integrity and Efficiency (CIGIE), Quality Standards for Investigations, November 15, 2011. "Due professional care must be used in conducting investigations and in preparing related reports," specifically the area for legal requirements states, "[i]nvestigations should be initiated, conducted, and reported in accordance with all applicable laws, rules, and regulations."

steps, which included retrieving emails, interviewing six individuals, and reviewing financial records for evidence of a kickback. However, we found no documentation that these planned investigative steps were completed. It is not clear why the CID case agent did not complete these planned steps before the Resident Agent in Charge terminated the investigation.

On July 13, 2021, we returned this investigation to CID officials for consideration of our findings. On July 22, 2021, we discussed our findings with the 701st Military Police Group Deputy Director. The Deputy Director agreed with a portion of one significant deficiency, but otherwise did not concur with the other significant deficiencies.

CID Rationale for Closing the Investigation Before Completion

Our review identified several required investigative steps that were not completed. The investigative case file does not detail reasons why these steps were not completed. In our discussion with the 701st Military Police Group Deputy Director, he told us that the CID case agent closed the investigation after a review of evidence, received from a subpoena, which did not support the allegations. The 701st Military Police Group Deputy Director provided several additional reasons why the CID case agent closed the investigation before completing the planned investigative steps, including:

- the statute of limitations had expired;
- a new Resident Agent in Charge was selected, who was then out of the office for approximately four months;
- one CID case agent deployed and another CID case agent later resigned;
- two employees left that office; and
- a command-directed internal investigation occurred.

While we understand that some external factors affected this investigation, none of the factors provided by the 701st Military Police Group Deputy Director account for why the case agent did not complete investigative steps or alter our determination that the investigation did not meet DoD and CID investigative standards.

Two NCIS Investigations Did Not Meet Standards

Of the 65 NCIS investigations evaluated, we determined 2 investigations (3 percent) did not meet investigative standards. Because these investigations did not meet DoD and NCIS investigative standards, we determined that the NCIS case agents did not exercise due professional care.

During our review of the first investigation, we found four significant deficiencies. As an example of one significant deficiency, we determined that the investigative case file had insufficient evidence to corroborate or refute the allegations of a possible kickback scheme involving a DoD contractor and four Navy employees. DoDI 7050.05 directs the gathering of relevant information to evaluate the individuals and DoD contractors under investigation for fraud. While the NCIS case agent did obtain the Performance Assessment Worksheets, which documented poor performance by the DoD contractor, the NCIS case agent did not analyze the Performance Assessment Worksheets to see if those submitted by the Navy employees allegedly receiving a bribe suddenly stopped being unsatisfactory. This analysis would directly support or negate the allegation that four Navy employees received bribes to ensure the contractor did not receive poor evaluations for their contract work. According to the investigative case file, the NCIS case agent planned to conduct other investigative steps, including surveillance, records checks of the DoD contractor and Navy employees, as well as additional witness interviews. However, our review of the investigation revealed the NCIS case agent did not conduct any of these investigative steps.

During our review of the second investigation, we found four significant deficiencies. As an example of one significant deficiency, we determined that the investigative case file had insufficient evidence to corroborate or refute the possible fraud and national security allegations involving a DoD contractor. DoDI 7050.05 directs the gathering of relevant information to evaluate the individuals and DoD contractors under investigation for fraud. Additionally, DoDI 7050.05 requires that records checks be completed for “contractor certificates, location, dollar value, type, number of contracts, past performance information, and current eligibility for federal contracts.” The NCIS case agent did not identify and analyze the multiple-award contract in question to determine if there were any immediate safety or counterintelligence concerns that would have triggered mandatory notifications to command and security services.²⁷ The NCIS case agent also did not obtain basic corporate information about the DoD contractor, including whether its subcontractors had any foreign subsidiaries. Additionally, we found that the NCIS case agent did not interview relevant witnesses or challenge discrepancies in the witness’ statement. The NCIS case agent did not interview two of the three witnesses. The only witness that the NCIS case agent interviewed provided contradicting statements, highlighting the need to interview the second and third witnesses.

²⁷ The Federal Acquisition Regulation 2.101 defines a multiple-award contract as including a type of “indefinite-delivery, indefinite-quantity contract entered into with two or more sources pursuant to the same solicitation.”

Both of these NCIS investigations were also noncompliant with policy in SECNAVINST 5430.92C, which contains additional coordination and distribution requirements. Specifically, SECNAVINST 5430.92C states:

In cases involving civilian personnel, contractors, or contractor employees, referral and liaison will be coordinated with the GC, AGC (AI) [General Counsel, Assistant General Counsel for Acquisition Integrity], and the Judge Advocate General [JAG] of the Navy. Coordinate such liaison in advance with the appropriate criminal investigative organization in those cases where a criminal investigation is pending.

This coordination did not occur for these two investigations. Therefore, on June 1, 2021, we returned these two investigations to NCIS officials for consideration of our findings. On June 15, 2021, we discussed our findings with the NCIS Deputy Inspector General and the Economic Crimes Field Office SAC. The NCIS Deputy Inspector General provided a memorandum, which stated that NCIS agreed to reopen the returned investigations to conduct additional investigative activity. On October 14, 2022, an NCIS official provided the results of the reopened investigations. We reviewed the additional investigative activity and determined that these two investigations now meet DoD and NCIS investigative standards. Therefore, we have closed Recommendation 3 for NCIS case agents to complete additional investigative activity and determine if administrative or contractual remedies should be pursued for these two investigations.

While NCIS officials agreed to reopen two investigations in the June 15, 2021 memorandum, "NCIS Response to DoDIG Investigative Deficiency Findings," the memorandum did not discuss the reason for reopening each investigation or the causes for the deficiencies noted in our review. We asked the SAC to discuss the noted deficiencies. The SAC told us that the JAG has no legal jurisdiction over civilian personnel, contractors, or contractor employees; therefore, the requirement to coordinate with the JAG in investigations involving civilian personnel, contractors, or contractor employees did not apply. Instead, the NCIS case agents coordinated with the Navy Acquisition Integrity Office (NAIO) and the Department of Justice, which has jurisdiction over civilian offenders. Further, the SAC told us that he believed the SECNAVINST 5430.92C should be updated with a new process specifying JAG notifications when active duty personnel are involved and clarifying that the NAIO serves as general counsel notification.

CID and NCIS Did Not Pursue Potential Prosecution or Remedies for Three Cases We Reviewed

CID and NCIS case agents must follow specific policies and procedures outlined in DoD, Service, and MCIO policy when conducting major procurement fraud investigations. If followed, these policies and procedures ensure integrity and efficient and thorough investigations. CID and NCIS case agents should complete additional investigative activity to evaluate the original allegations in the three insufficient investigations. Because of the significant deficiencies, the three insufficient investigations were not thorough and there was no opportunity to pursue potential prosecution and remedies.

Recommendations, Management Comments, and Our Response

Recommendation B.1

We recommend that the Secretary of the Navy conduct a review of Secretary of the Navy Instruction 5430.92C to determine if a revision is necessary to align legal notifications to the appropriate legal jurisdiction. Specifically, to notify the General Counsel, Acquisition General Counsel for Acquisition Integrity when civilian personnel, contractors, or contractor employees are involved in an investigation, and notify the Judge Advocate General when military personnel are involved in an investigation.

Management Comments Required

The Secretary of the Navy did not respond to the recommendation in the report. Therefore, this recommendation is unresolved. We request that the Secretary of the Navy provide comments on the final report within 30 days.

Recommendation B.2

We recommend that the Army Criminal Investigation Division Director reopen the deficient investigation to complete the outstanding investigative steps and determine if administrative or contractual remedies should be pursued.

Army Criminal Investigation Division Comments

The Army CID Chief of Staff, responding for the Army CID Director, disagreed and stated that it is no longer practical to reopen the investigation. The Chief of Staff included four reasons why it is no longer practical: one subject is deceased;

one has retired from the military; the statute of limitations has expired; and the supporting legal advisor opined that there was “no probable cause” to believe a crime was committed.

Our Response

Comments from the Army CID Chief of Staff did not address the specifics of the recommendation; therefore, the recommendation is unresolved. We disagree with the Chief of Staff’s comment that it is no longer practical to reopen the investigation.

First, there were four subjects in this investigation. While one subject may be deceased and another subject retired from the military, there are still two remaining subjects. Second, during our evaluation, the 701st Military Police Group Deputy Director told us that the statute of limitations for this investigation expired in April 2016. However, the CID case agent did not issue the final report for this investigation until March 2018. The final report and the investigative case file do not mention the statute of limitations being an issue in this investigation at that time. Finally, while we agree with the Chief of Staff that the supporting legal advisor opined that there was “no probable cause,” the legal advisor limited her opinion to the civil false claims act. Specifically, the investigative case file states that the legal advisor “opined that there was no probable cause/reasonable grounds to believe the listed subjects violated the listed statute (31 USC 3729 – Civil False Claims Act).” One of the reasons that this investigation did not meet DoD and CID investigative standards was because the allegations were related to bribery and conflict of interest, yet the investigative case file listed conspiracy and civil false claims act as the offenses. The legal advisor’s opinion documented in the investigative case file did not address the bribery and conflict of interest allegations.

We request that the Director review the significant deficiencies the DoD OIG shared with CID on July 13, 2021, and provide information on their plans to reopen the case. Specifically, review and provide information on the significant deficiency that pertinent information was not examined, and consider additional coordination with the PFD that addresses the bribery and conflict of interest allegations.

Recommendation B.3

We recommend that the Naval Criminal Investigative Service Director reopen the deficient investigations to complete the outstanding investigative steps and determine if remedies should be pursued.

Recommendation Closed

On June 15, 2021, the NCIS Deputy Inspector General provided a memorandum, which stated that NCIS agreed to reopen the returned investigations to conduct additional investigative activity. On October 14, 2022, an NCIS official provided the results of the reopened investigations. We reviewed the additional investigative activity and determined that these two investigations now meet DoD and NCIS investigative standards. As a result of management actions taken during the evaluation, Recommendation B.3 is closed.

Appendix

Scope and Methodology

We conducted this evaluation from October 2020 through September 2022 in accordance with the “Quality Standards for Inspection and Evaluation,” published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

Review of MCIO Major Procurement Fraud Investigations

We identified the specific criteria for each MCIO investigation to determine whether the major procurement fraud investigations were compliant with DoD, Service, and MCIO policy. Specifically, we identified overarching DoD criteria of DoDI 5505.02 and DoDI 7050.05. In addition, we identified Service and MCIO specific criteria of AR 27-40 and the MPFU SOP for CID; SECNAVINST 5430.92C, NCIS Manual 1, Chapter 45, and NCIS Manual 3, Chapter 24 for NCIS; and AFI 51-1101, and AFOSI Manual 71-122 for OSI.

We requested each MCIO provide a list of major procurement fraud investigations closed from January 1, 2017, to December 31, 2019, to determine compliance with DoD, Service, and MCIO regulations in effect at the time of the investigation. To better assess MCIO compliance with DoD, Service, and MCIO policy, we asked the MCIO to exclude investigations that were joint investigations with a non-MCIO agency. The lists provided by the MCIOs showed that the MCIOs closed 1,339 major procurement fraud investigations from January 1, 2017, to December 31, 2019. However, the lists incorrectly included joint investigations with non-MCIOs. We removed 660 of these joint investigations from the list, resulting in 679 investigations that appeared to meet our evaluation criteria. The DoD OIG Quantitative Methods Division reviewed the list of 679 closed major procurement fraud investigations and identified a stratified random sample of 220 investigations to evaluate. The 220 investigations were comprised of 112 CID investigations, 74 NCIS investigations, and 34 OSI investigations.

During our review of the sample of 220 investigations, we eliminated 87 investigations that did not meet our criteria. For example, these 87 investigations were not related to major procurement fraud, conducted jointly with a non-MCIO, or, were still under investigation. By removing these

87 investigations, our stratified random sample became a non-statistical sample. Our final non-statistical sample was 133 major procurement fraud investigations, comprised of 43 CID investigations, 65 NCIS investigations, and 25 OSI investigations. We reviewed the investigative case files for these 133 major procurement fraud investigations during our evaluation.

Use of Computer-Processed Data

We did not use computer-processed data for this evaluation.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) published two reports discussing procurement fraud:

Unrestricted GAO reports can be accessed at <http://www.gao.gov>.

GAO

Report No. GAO-21-309, “DoD Fraud Risk Management: Actions Needed to Enhance Department Wide Approach, Focusing on Procurement Fraud Risks,” August 19, 2021

GAO was asked to review issues related to DoD’s fraud risk management. DoD obligated \$421.8 billion in fiscal year 2020 on contracts. GAO has long reported that DoD’s procurement processes are vulnerable to waste, fraud, and abuse. In 2018, DoD reported to Congress that from fiscal years 2013-2017, over \$6.6 billion had been recovered from defense-contracting fraud cases. In 2020, the DoD Office of Inspector General reported that roughly one-in-five of its ongoing investigations are related to procurement fraud. This report assesses the steps DoD took in fiscal year 2020 (1) to combat department-wide fraud risks and (2) to conduct a fraud risk assessment and ensure that DoD’s component organizations reported procurement fraud risks.

GAO analyzed applicable DoD policy and documents and compared them with Fraud Risk Framework leading practices, interviewed DoD officials, and reviewed fiscal year 2020 fraud risk assessments from six DoD components. GAO selected the six based primarily on fiscal years 2014-2018 contract obligations.

Report No. GAO-20-106, "Defense Procurement: Ongoing DoD Fraud Risk Assessment Efforts Should Include Contractor Ownership," November 25, 2019

DoD generally accounts for about two-thirds of federal contracting activity. Some companies conducting business with the DoD may have an opaque ownership structure that conceals other entities or individuals who own, control, or financially benefit from the company. Opaque ownership could be used to assist fraud and other unlawful activity.

The House Armed Services Committee report on the National Defense Authorization Act for FY 2018 included a provision for GAO to examine the risks posed by contractors with opaque ownership and DoD's processes for identifying ownership. This report identifies types of fraud and other risks that opaque contractor ownership poses to DoD in the procurement process and assesses whether DoD has taken steps to address those risks. GAO reviewed applicable laws and regulations and interviewed DoD officials, including procurement staff and criminal investigators. GAO researched cases from 2012 through 2018 where contractors may have concealed or failed to disclose ownership information. GAO compared DoD's efforts to leading practices in GAO's Fraud Risk Framework. This is a public version of a sensitive report that the GAO issued in September 2019. Information that the DoD deemed sensitive involving ongoing investigations and certain internal controls and vulnerabilities has been omitted.

Management Comments

Army Office of The Judge Advocate General Comments



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
PROCUREMENT FRAUD DIVISION
9275 GUNSTON ROAD
FORT BELVOIR VA 22060-5546

REPLY TO
ATTENTION OF

DAJA-PF

20 Dec 2022

MEMORANDUM FOR Office of the Department of Defense Inspector General

SUBJECT: Department of the Army Response to the Department of Defense Inspector General Draft Report "Evaluation of Military Criminal Investigative Organization's Major Procurement Fraud Programs (Project No. D2021-DEV0SV-0019.000)"

1. RECOMMENDATION:

- a. The subject draft report notes that in accordance with DoDI 7050.05, CID case agents are required to provide immediate written notification of the start of all significant investigations to the Procurement Fraud Division (PFD). However, the current version of Army Regulation (AR) 27-40 requires that CID case agents provide PFD with written notification within 30 days of initiation of a significant investigation of fraud or corruption related to Army procurement activities.
- b. Recommendation A.1 of the subject draft report recommends that the Secretary of the Army conduct a review of AR 27-40 to determine if a revision is necessary to align the initial written notification requirement with DoDI 7050.05. Specifically, to require immediate written notification to the centralized organization at the start of all significant fraud investigations.

2. ARMY RESPONSE: Concur. Recommended changes consistent with those noted in the subject report have been incorporated into the draft revision of AR 27-40.

3. Should you have any additional questions, [REDACTED]

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Mark A. Rivest
Chief, Procurement Fraud Division
Office of The Judge Advocate
General



Army Criminal Investigation Division Comments



DEPARTMENT OF THE ARMY
U. S. ARMY CRIMINAL INVESTIGATION COMMAND
27130 TELEGRAPH ROAD
QUANTICO, VA 22134

CIOP-ZC (195)

19 December 2022

MEMORANDUM FOR Office of Inspector General (Deputy Inspector General for Policy and Oversight), Department of Defense, 4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: Evaluation of Military Criminal Investigative Organization's Major Procurement Fraud Programs (Project No. D2021-DEV0SV-0019.000)

1. Reference your Draft Report, 18 October 2022, subject as above.
2. Thank you for the opportunity to provide comments to the draft report. I acknowledge your detailed review of the U.S. Army Criminal Investigation Command (CID) policies and procedures associated with major procurement fraud investigations and notifications.
3. I reviewed the draft report and recommendations and concur with the following comments.
 - a. Recommendation A.3: We recommend that the Army Criminal Investigation Division Director:

Response to Recommendation A.3.a: Concur with the recommendation to conduct review of supervisor procedures. The Major Procurement Fraud Field Office (MPFFO) has taken multiple steps to ensure effective communication with the Procurement Fraud Division (PFD)/Procurement Fraud Attorneys (PFAs), and the appropriate documentation of the same. Since being made aware of the deficiencies identified in this report, the MPFFO has updated their report of investigation distribution list, which had already included the Chief, PFD, on all reports, and redistributed the list to the MPFFO field elements, reinforcing the requirement. Additionally, an email was sent to the field reinforcing the requirements to make immediate initial coordination with the PFD in writing, along with the specifics to be reported, the requirement to maintain contact and to have discussions throughout the case with the PFD and the PFAs, and to include the PFAs and PFD on all non-restricted distribution reports. Additionally, the MPFFO has provided the governing regulations and Standing Operating Procedures to its field elements. The MPFFO is also in the process of implementing a global case checklist which will highlight these requirements to be used as a tool to ensure the requirements are met. The MPFFO will be reviewing field training to ensure it reinforces the importance of collaboration with the PFD and PFAs. The MPFFO is currently working on developing a standardized notification letter to be sent to the PFD and PFAs at the initiation of investigations.

- b. Recommendation A.3.b: Review and update current investigative procedures to better align with policy requirements.

Army Criminal Investigation Division Comments (cont'd)

CIOP-ZC (195)

SUBJECT: Evaluation of Military Criminal Investigative Organization's Major Procurement Fraud Programs (Project No. D2021-DEV0SV-0019.000)

Response to Recommendation A.3.b: The current investigative procedures are aligned with policy requirements. The MPFFO supervisors will ensure that the standards are being met by the case agents and ensure the case files reflect the same. The guidance to MPFFO field elements will reiterate your recommendations and will also include the findings of this draft report.

c. Recommendation B.2: We recommend that the Army Criminal Investigation Division Director reopen the deficient investigation to complete the outstanding investigative steps and determine if administrative or contractual remedies should be pursued.

Response to Recommendation B.2: The DODIG requested MPFFO reopen the case if practical to conduct additional investigative activity to address the deficiencies. It is no longer practical to reopen the investigation, as one subject is deceased; one has retired from the military; the statute of limitations has expired; and we received an opinion from our supporting legal attorney that there was "no probable cause" to believe a crime was committed.

4. The point of contact is [REDACTED]

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Chief of Staff

Naval Criminal Investigative Service Comments



DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

5041
Ser 001/22U0020
22 Dec 22

MEMORANDUM FOR OFFICE OF THE DEPARTMENT OF DEFENSE INSPECTOR
GENERAL

Subj: NCIS RESPONSE TO DODIG EVALUATION OF MCIO MAJOR PROCUREMENT
FRAUD PROGRAMS

Ref: (a) Project Number D2021-DEV0SV-0019.000 DoDIG Major Procurement Fraud
Programs Draft Report/18Oct22

Reference (a) request that all Military Departments provide corrective actions taken or planned or proposed completion dates for recommendations provided by the report. There is one outstanding recommendation for the Naval Criminal Investigative Service.

RECOMMENDATION A.4: We recommend that the Naval Criminal Investigative Service Director:

- a. Conduct a review of supervisor review procedures to ensure Naval Criminal Investigative Service case agents consistently notify, coordinate with, and distribute final reports to the Naval Acquisition Integrity Office (NAIO).
- b. Conduct a review of Naval Criminal Investigative Service Manuals to determine if the Case Activity Record should be included as part of the official investigative case file and included with submission to the Records Management Branch.
- c. Review and update current investigative procedures to better align with requirements.

NCIS RESPONSE: Concur. The need for notification and distribution has been reiterated to economic crimes supervisors. With all major procurement fraud investigations now under the Economic Crimes Field Office, compliance with requirements specific to these investigations has increased. The retention of the Case Activity Record is being considered in the larger context of paperless reporting and the development of a new case management system, which is set to be launched in 2023. An update to NCIS policy associated with Economic Crimes was published in March 2022, which specifically addresses NAIO notification and coordination for the purpose of administrative remedies. The content of this policy is reviewed and updated annually to ensure compliance with DoDI and SECNAVINST requirements.

Naval Criminal Investigative Service Comments (cont'd)

Please direct any questions concerning this memorandum to [REDACTED]

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Mario A. Palomino
Inspector General
Naval Criminal Investigative Service

Office of Special Investigation Comments



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS
QUANTICO VIRGINIA

16 December 2022

MEMORANDUM FOR DODIG

FROM: HQ OSI/XR
 27130 Telegraph Rd
 Quantico, VA 22134

SUBJECT: OSI Response to DoDIG Project No. D2021-DEVOSV-0019.00

1. Below are the responses to the recommendations following the MCIO Major Procurement Fraud evaluation, project number D2021-DEVOSV-0019.00.

a. **Recommendation:** Conduct a review of supervisor review procedures to ensure Office of Special Investigation case agents consistently notify and distribute final reports to the Secretary of the Air Force, Deputy General Counsel for Contractor Responsibility.

1. **OSI Response:** Concur. Drafted policy change; pending publication with an estimated publication date in 2023.

b. **Recommendation:** Review and update current investigative procedures to better align with policy requirements.

1. **OSI Response:** Concur. Updated basic and advanced training courses and policy to reemphasize requirements. The OSI Contracting Overview Workshop training was updated and implemented in 2022. Estimated implementation for additional training material and courses is 1 Jul 23.

2. For questions or concerns regarding this matter, please contact [REDACTED]

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TERRY L. BULLARD
 Brigadier General, DAF
 Commander

"EYES OF THE EAGLE"

Acronyms and Abbreviations

AFI	Air Force Instruction
AFOSIMAN	Air Force Office of Special Investigations Manual
AGC	Assistant General Counsel (Navy)
AI	Acquisition Integrity (Navy)
AR	Army Regulation
AUSA	Assistant United States Attorney
CAR	Case Activity Record
CID	Criminal Investigation Division (Army)
CIDR	Criminal Investigation Division Regulation
DoDI	DoD Instruction
DOJ	Department of Justice
JAG	Judge Advocate General
MCIO	Military Criminal Investigative Organization
MPFU	Major Procurement Fraud Unit (CID)
NAIO	Naval Acquisition Integrity Office
NCIS	Naval Criminal Investigative Service
OSI	Office of Special Investigations (Air Force and Space Force)
PFD	Procurement Fraud Division (Army)
QMD	Quantitative Methods Division
SAC	Special Agent in Charge
SAF/GCR	Secretary of the Air Force, Deputy General Counsel for Contractor Responsibility
SECNAVINST	Secretary of the Navy Instruction
SOP	Standard Operating Procedure

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